

103^D CONGRESS
2^D SESSION

S. 1969

To amend the Worker Adjustment and Retraining Notification Act to minimize the adverse effects of employment dislocation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 24 (legislative day, FEBRUARY 22), 1994

Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. SIMON, Ms. MIKULSKI, Mr. PELL, Mr. WELLSTONE, Mr. RIEGLE, and Mr. FEINGOLD) introduced the following bill; which was read the first time

A BILL

To amend the Worker Adjustment and Retraining Notification Act to minimize the adverse effects of employment dislocation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND REFERENCE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Worker Adjustment and Retraining Notification Amend-
6 ments Act”.

7 (b) **REFERENCE.**—Except as specifically provided
8 otherwise, whenever in this Act an amendment or repeal
9 is expressed in terms of an amendment to, or repeal of,

1 a section or other provision, the reference shall be consid-
2 ered to be made to a section or other provision of the
3 Worker Adjustment and Retraining Notification Act (29
4 U.S.C. 2101 et seq.).

5 **SEC. 2. DEFINITIONS.**

6 (a) EMPLOYER, PLANT CLOSING, AND MASS LAY-
7 OFF.—Paragraphs (1) through (3) of section 2(a) (29
8 U.S.C. 2101(a)(1)-(3)) are amended to read as follows:

9 “(1) the term ‘employer’ means any business
10 enterprise that employs 50 or more employees;

11 “(2) the term ‘plant closing’ means—

12 “(A) the permanent or temporary shut-
13 down of a single site of employment, or of one
14 or more facilities or operating units within a
15 single site of employment, which results in an
16 employment loss at such site, during any 30-
17 day period, for 25 or more employees; or

18 “(B) the permanent or temporary shut-
19 down of one or more sites of employment, or of
20 one or more facilities or operating units within
21 such sites, which results in an employment loss,
22 during any 30-day period, for 100 or more
23 employees.

24 “(3) the term ‘mass layoff’ means—

1 “(A) a reduction in force at a single site
2 of employment which results in an employment
3 loss at such site, during any 30-day period, for
4 25 or more employees; or

5 “(B) a reduction in force which results in
6 an employment loss, during any 30-day period,
7 for 100 or more employees.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) NOTICE.—Section 3(d) (29 U.S.C. 2102(d))
10 is amended by striking out “, each of which is less
11 than the minimum number of employees specified in
12 section 2(a) (2) or (3) but which in the aggregate
13 exceed that minimum number,” and inserting in lieu
14 thereof “which in the aggregate exceed the minimum
15 number of employees specified in section 2(a) (2) or
16 (3)”.

17 (2) DEFINITIONS.—Section 2(b)(1) (29 U.S.C.
18 2101(b)(1)) is amended by striking “(other than a
19 part-time employee)”.

20 (c) SECRETARY OF LABOR.—

21 (1) DEFINITION.—Paragraph (8) of section
22 2(a) (29 U.S.C. 2101(a)(8)) is amended to read as
23 follows:

1 “(8) the term ‘Secretary’ means the Secretary
2 of Labor or a representative of the Secretary of
3 Labor.”.

4 (2) REGULATIONS.—Section 8(a) (29 U.S.C.
5 2107(a)) is amended by striking “of Labor”.

6 **SEC. 3. NOTICE.**

7 (a) PERIOD.—Section 3 (29 U.S.C. 2102) is amend-
8 ed—

9 (1) in subsection (a), by striking “a 60-day pe-
10 riod after” and inserting “the applicable notice pe-
11 riod required after”;

12 (2) in subsection (b), by striking “60-day pe-
13 riod” each place such term appears and inserting
14 “notice period”;

15 (3) by redesignating subsections (b) through (d)
16 as subsections (c) through (e), respectively; and

17 (4) by inserting after subsection (a), the follow-
18 ing new subsection:

19 “(b) NOTICE PERIOD.—As used in this section, the
20 term ‘notice period’ means—

21 “(1) in the case of a plant closing or mass lay-
22 off which results in an employment loss for at least
23 25 but not more than 49 employees, 30 days;

1 “(2) in the case of a plant closing or mass lay-
 2 off which results in an employment loss for at least
 3 50 but not more than 99 employees, 60 days; and

4 “(3) in the case of a plant closing or mass lay-
 5 off which results in an employment loss for at least
 6 100 employees, 90 days.”.

7 (b) CONFORMING AMENDMENT.—Section 5(a)(1) (29
 8 U.S.C. 2104(a)(1)) is amended in the matter following
 9 subparagraph (B), by striking “60 days” and inserting
 10 “the applicable notice period”.

11 (c) RECIPIENT.—Section 3(a)(1) (29 U.S.C.
 12 2102(a)(1)) is amended by striking “or, if there is no such
 13 representative at that time, to each affected employee”
 14 and inserting “and to each affected employee”.

15 **SEC. 4. ENFORCEMENT.**

16 (a) AMOUNT.—Section 5(a)(1) (29 U.S.C.
 17 2104(a)(1)) is amended—

18 (1) in subparagraph (A)(ii), by striking “and”
 19 at the end thereof;

20 (2) by redesignating subparagraph (B) as sub-
 21 paragraph (D); and

22 (3) by inserting after subparagraph (A) the fol-
 23 lowing new subparagraphs:

24 “(B) interest on the amount described in sub-
 25 paragraph (A) calculated at the prevailing rate;

1 “(C) an additional amount as liquidated dam-
2 ages equal to the sum of the amount described in
3 subparagraph (A) and the interest described in sub-
4 paragraph (B); and”.

5 (b) EXEMPTION.—Section 5(a)(4) (29 U.S.C.
6 2104(a)(4)) is amended by striking “reduce the amount
7 of the liability or penalty provided for in this section” and
8 inserting “reduce the amount of the liability under sub-
9 paragraph (C) of paragraph (1) and reduce the amount
10 of the penalty provided for in paragraph (3)”.

11 (c) ADMINISTRATIVE COMPLAINT.—Section 5(a)(5)
12 (29 U.S.C. 2104(a)(5)) is amended—

13 (1) by striking “may sue,” and inserting
14 “may,”;

15 (2) by inserting after “both,” the following:
16 “(A) file a complaint with the Secretary alleging a
17 violation of section 3, or (B) bring suit”; and

18 (3) by adding at the end thereof the following
19 new sentence: “A person seeking to enforce such li-
20 ability may use one or both of the enforcement
21 mechanisms described in subparagraphs (A) and
22 (B).”.

23 (d) ACTION BY THE SECRETARY.—Section 5 (29
24 U.S.C. 2104) is amended—

1 (1) by redesignating subsection (b) as sub-
2 section (d); and

3 (2) by inserting after subsection (a) the follow-
4 ing new subsections:

5 “(b) ACTION BY THE SECRETARY.—

6 “(1) ADMINISTRATIVE ACTION.—The Secretary
7 shall receive, investigate, and attempt to resolve
8 complaints of violations of section 3 by an employer
9 in the same manner that the Secretary receives, in-
10 vestigates, and attempts to resolve complaints of vio-
11 lations of sections 6 and 7 of the Fair Labor Stand-
12 ards Act of 1938 (29 U.S.C. 206 and 207).

13 “(2) SUBPOENA POWERS.—For the purposes of
14 any investigation provided for in this section, the
15 Secretary shall have the subpoena authority provided
16 for under section 9 of the Fair Labor Standards Act
17 of 1938 (29 U.S.C. 209).

18 “(3) CIVIL ACTION.—The Secretary may bring
19 an action in any court of competent jurisdiction to
20 recover on behalf of an employee the back pay, inter-
21 est, benefits, and liquidated damages described in
22 subsection (a)(1).

23 “(4) SUMS RECOVERED.—Any sums recovered
24 by the Secretary on behalf of an employee under
25 subparagraphs (A), (B), and (D) of section 5(a)(1)

1 shall be held in a special deposit account and shall
 2 be paid, on order of the Secretary, directly to each
 3 employee affected. Any such sums not paid to an
 4 employee because of inability to do so within a pe-
 5 riod of 3 years, and any sums recovered by the Sec-
 6 retary under subparagraph (C) of section 5(a)(1),
 7 shall be credited as an offsetting collection to the ap-
 8 propriations account of the Secretary of Labor for
 9 expenses for the administration of this Act and shall
 10 remain available to the Secretary until expended.

11 “(5) ACTION TO COMPEL RELIEF BY SEC-
 12 RETARY.—The district courts of the United States
 13 shall have jurisdiction, for cause shown, over an ac-
 14 tion brought by the Secretary to restrain the with-
 15 holding of payment of back pay, interest, benefits, or
 16 other compensation, plus interest, found by the court
 17 to be due to employees under this Act.

18 “(c) LIMITATIONS PERIOD.—

19 “(1) IN GENERAL.—An action may be brought
 20 under this section not later than 2 years after the
 21 date of the last event constituting the alleged viola-
 22 tion for which the action is brought.

23 “(2) COMMENCEMENT.—In determining when
 24 an action is commenced under this section for the
 25 purposes of paragraph (1), it shall be considered to

1 be commenced on the date on which the complaint
2 is filed.”.

3 **SEC. 5. POSTING OF NOTICES; PENALTIES.**

4 The Act (29 U.S.C. 2101 et seq.) is amended by add-
5 ing at the end thereof the following new section:

6 **“SEC. 11. POSTING OF NOTICES; PENALTIES.**

7 “(a) POSTING OF NOTICES.—Each employer shall
8 post and keep posted in conspicuous places upon its prem-
9 ises where notices to employees are customarily posted a
10 notice to be prepared or approved by the Secretary of
11 Labor setting forth excerpts from, or summaries of, the
12 pertinent provisions of this chapter and information perti-
13 nent to the filing of a complaint.

14 “(b) PENALTIES.—A willful violation of this section
15 shall be punishable by a fine of not more than \$100 for
16 each separate offense.”.

17 **SEC. 6. EFFECTIVE DATE.**

18 This Act, and the amendments made by this Act,
19 shall take effect on the date of the enactment of this Act.

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